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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
		080437.49628US	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____	Application Number	Filed	
	09/803,360	March 12, 2001	
	First Named Inventor		
	Werner ZAGLER		
	Art Unit	Examiner	
	2636	Julie B. Lieu	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>32,169</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			


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The final Office Action dated January 24, 2006 rejected claims 1-9 as being obvious over Boehm (DE 42 03 512 C1). This rejection is being appealed and a pre-appeal review is requested. To aid the review, Applicant reproduces below claim 1, in which the italicized portions are the subject of the pre-appeal review.

1. A method of facilitating entry into or out of a motor vehicle, the method comprising the acts of:

providing a double unlock door command;

simultaneously or subsequently opening a vehicle door; and

completely lowering a window of the vehicle door as soon as both the double unlock command and the simultaneous or subsequent opening of the vehicle door occurs, without requiring any further action by a user.

In particular, the Examiner alleged that Boehm discloses a system for facilitating entry into or out of a motor vehicle that includes a control device that operates to completely lower the window of the vehicle door as soon as a double unlock command has been received and, either simultaneously or subsequently, the vehicle door has been opened, without requiring any further action by a user (see, in particular, the Final Office Action's paragraph bridging pages 2 and 3 - citing to Boehm's abstract). As previously pointed out by Applicant, however, Boehm simply does not operate in this manner. Specifically, Boehm does require a further user action before lowering the window. Boehm requires that the user hold the door handle in an open state for a set time period after opening the door.

Applicants provided an English-language translation of Boehm and its drawing figure, a copy of the English drawing figure of Boehm being attached, which clearly shows from the right-hand flow path 12 of the Figure 2 flowchart

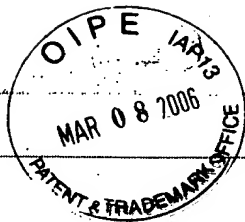
that, upon receipt of the unlock command (ZV) and opening of the door, the user simply enters the vehicle through the door. No complete lowering of the window occurs. In contrast, the left-hand flow path 13 of Figure 2 requires not only the unlock command (ZV) and opening of the door, but also the additional user action of holding the door handle in an open state for an additional time period, i.e., an additional second, before the window pane is automatically lowered.

Clearly, therefore, Boehm does not lower the window as soon as the double unlock command and the opening of the vehicle door occurs as is alleged by the Examiner. If that were to be the case, then the right-hand path 12 shown in Figure 2 of Boehm would also indicate a complete lowering of the vehicle window. This is not the case, however, because Boehm requires the additional user action of operating the door handle for an extra period of time. As such, in contrast to Applicants' claims, Boehm does not completely lower the window as soon as both the double unlock command and the simultaneous or subsequent opening of the vehicle door occurs, without requiring any further action by a user.

Indeed, Applicants had previously amended the claims to recite the "as soon as" language and the condition of "without requiring any further action by a user" in order to address the concerns raised by the Board of Patent Appeals in the prior Board decision in this case. There, in response to similar arguments Applicants made previously to the Board, the Board recognized the merits of the argument but pointed out that the original claims did not include a negative limitation to distinguish over Boehm's operation and functionality (see Board

decision, page 4, last paragraph). Hence, Applicants addressed that issue by amending the claims to require that the vehicle window be lowered once the double unlock command and door opens without requiring any further action by the user as is the case in Boehm.

In view of the foregoing, Applicants submit independent claims 1, 5 and 9 are patentable over Boehm. Further, claims 2-4 and 6-8 depend from claims 1 and 5, respectively and are also submitted to be patentable. Withdrawal of the final rejection and allowance of the application are respectfully requested.



ZEICHNUNGEN SEITE 2

Nummer:

DE 42 03 512 C1

Int. Cl.:

E 05 F 15/16

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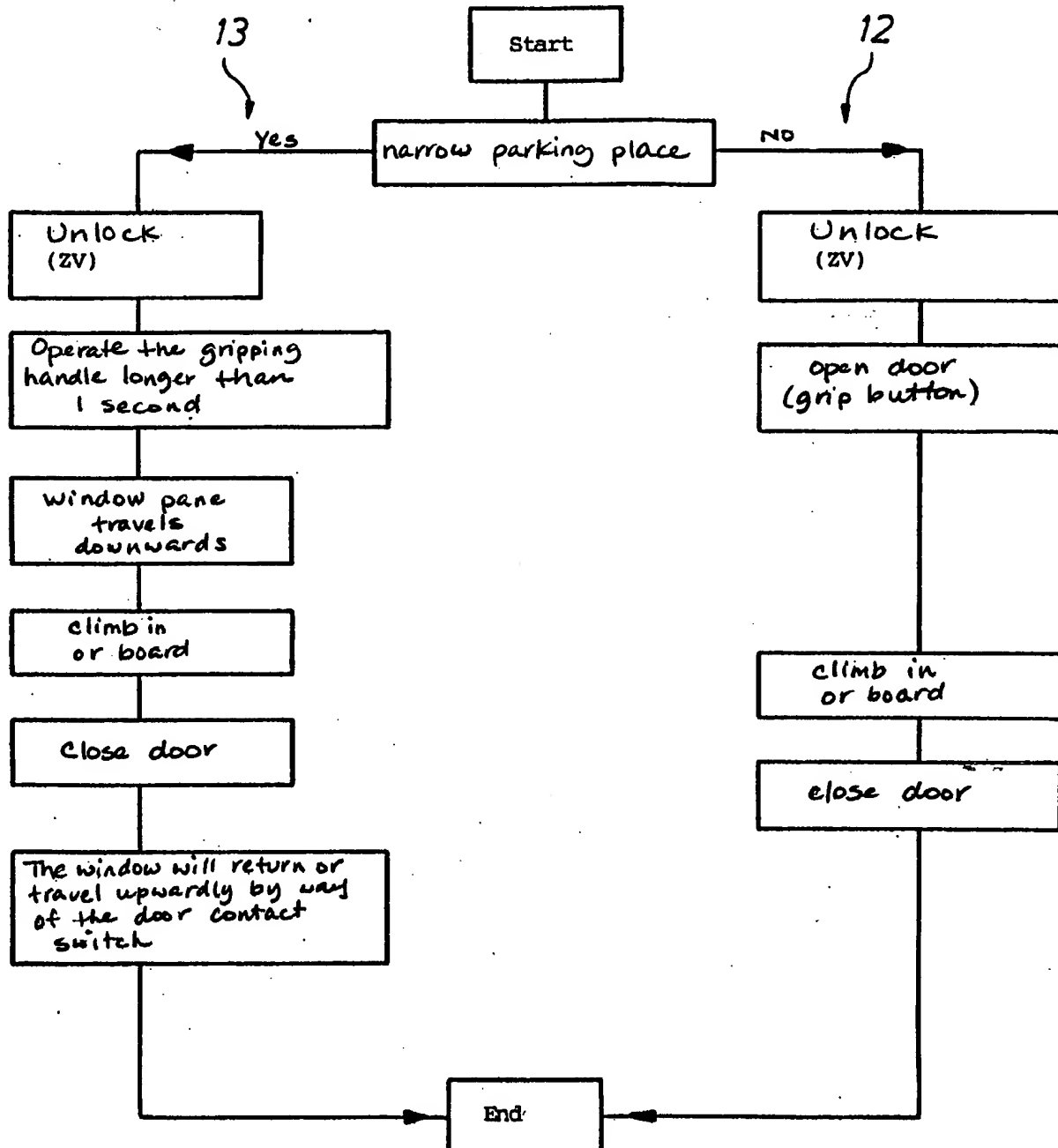


FIG. 2



correctly explains that the reference essentially teaches a single unlock command. From our study of this reference, the context of the overall disclosure is a setting where an actual key is used to unlock the doors but recognizes that the prior art also may use a remote triggering transmitter at a distance from the vehicle for unlocking and control purposes as discussed at the top of translation page 5. In any event, this double unlock command is not argued in the brief or reply brief and is admitted to be known in the art at specification pages 1 and 2 and the Summary of the Invention in the brief at page 2. It is interesting to note here that the teaching of this admitted prior art is such that a complete lowering of a door window takes place by a single operation of a double unlock command alone.

The principal argument in the brief and reply brief of appellant is that the reference does not lower the vehicle window until a separate and additional action by the operator occurs after the door is opened. It is further explained at page 4 of the principal brief on appeal that this separate and additional action requires the user to actuate the door handle for a specified period of time. This is consistent with the teachings of the operation of Figure 2 at translation page 10 and as depicted by the English translation version of the Figure 2 of this reference that was attached to the brief. Nevertheless, there is no negative limitation in the claims that distinguishes over the operation and functionality of the reference to the extent of not requiring the door handle to be actuated for less than one second or any amount of time for that matter.